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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,516	11/14/2001	David P. Goren	1061B	7465

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SYMBOL TECHNOLOGIES INC
LEGAL DEPARTMENT
ONE SYMBOL PLAZA
HOLTSVILLE, NY 11742

EXAMINER
PEREZ GUTIERREZ, RAFAEL

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 08/14/2003

93

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

Office Action Summary

Application No.

09/926,516

Applicant(s)

Goren et al.

Examiner

Rafael Perez-Gutierrez

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2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 14, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov 14, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 and 7 6) ☐ Other:

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DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Information Disclosure Statement

2. The information disclosure statements submitted on March 7, 2002 and September 26, 2002 have been considered by the Examiner and made of record in the application file.

Drawings

3. The drawings are objected to because of the following minor informalities:
 - a) On **figure 7 step 740**, replace "Uisng" with --Using--;
 - b) On **figure 17 example 3**, and according to **page 53 lines 8-11**, M should comprise three symbols instead of the two symbols shown in the figure; and
 - c) On **figure 22 step 2240**, replace "Commincation" with --Communication--.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference number mentioned in the description on **page 59 lines 12-15**: On **figure 21**, reference number **2100** identifying the network is not shown.

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5. A proposed drawing correction or corrected drawings are required in reply to the Office Action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

6. **Claim 13** is objected to because of the following informality: On **line 1**, insert --claim-- before "11". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8, 15, 18-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by **Greenspun et al. (U.S. Patent # 5,150,310)**.

Consider **claims 1, 4, 5, 15, and 18**, Greenspun et al. clearly show and disclose a system

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and method for providing position detection information (location identification information), said position (location) information corresponding to a movable object (mobile asset) in a communication network (abstract, figure 1A, column 1 lines 7-12, column 4 line 66 - column 5 line 15, and column 7 lines 33-44), said system and corresponding method comprising:

means for detecting radio frequency energy on a shared communication (first) channel 11 (energy detector; inherent in the teaching of detecting whether a channel is in use or occupied) (figures 1A and 3B, column 5 line 62 - column 6 line 2, column 7 lines 33-44, and column 10 lines 40-65);

means for delaying or waiting a predetermined period of time (inherent in the teaching of deferring transmission for a selected period of time in response to the channel being in use) (figure 3B, column 5 line 62 - column 6 line 2, and column 10 lines 58-60); and

if the channel 11 is quiet (when the radio frequency energy is substantially less than a predetermined threshold), transmitting, via transmitters 12 (means for transmitting), said position (location) information (abstract, figures 1A, 1B, and 3B, column 4 line 65 - column 6 line 2, column 6 lines 55-63, column 7 lines 11-23, and column 10 line 40 - column 11 line 7).

Consider **claims 6 and 19**, and **as applied to claims 1 and 15 above**, Greenspun et al. also disclose that the transmitters 12 (figure 1A) are configured to transmit a signal that includes a tag portion that uniquely identifies the transmitter (asset identification information) (column 7 lines 51-54).

Consider **claims 7, 20, and 23**, and **as applied to claims 1 and 15 above**, Greenspun et

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al. further disclose that the transmitters 12 (figure 1A) are configured to transmit a signal (information sequence) selected for time-of-arrival estimation (column 8 lines 28-54).

Consider **claims 8 and 21**, and **as applied to claims 1 and 15 above**, Greenspun et al. also disclose receiving a signal (communication sequence) from a network transmitter 12.1-12.N (figure 1A) (column 7 lines 49-51).

8. **Claims 11, 13, and 14** are rejected under 35 U.S.C. 102(a) as being anticipated by **Belcher et al. (U.S. Patent # 6,121,926)**.

Consider **claim 11**, Belcher et al. clearly show and disclose a method for providing location identification information, said location information corresponding to a location of a mobile asset 14 (figure 1) in a communication network (column 2 line 33 - column 3 line 7), said method comprising:

receiving a query transmission (wake-up signal) from an interrogation wand 30 (network transmitter) (column 5 lines 30-40); and

transmitting said location identification information (abstract, figures 1 and 4, column 5 lines 40-46 and column 9 lines 33-53).

Consider **claim 13**, and **as applied to claim 11 above**, Belcher et al. further disclose that said transmitting comprises transmitting tag identification code (asset identification information) (column 5 lines 40-46).

Consider **claim 14**, and **as applied to claim 11 above**, Belcher et al. also disclose that

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said transmitting comprises transmitting a pulse (information sequence) selected for time-of-arrival estimation (abstract).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claim 2, 3, 16, and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Greenspun et al. (U.S. Patent # 5,150,310)**.

Consider **claims 2 and 16**, and **as applied to claims 1 and 15 above**, Greenspun et al. clearly disclose, among other embodiments, that the communication network is an Ethernet network using an RF (wireless) communication channel 11 transmitting a packet (column 7 lines 33-44, column 10 lines 30-39, column 11 lines 5-7). Nonetheless, Greenspun et al. do not disclose that the packet is a 802.11 data packet.

However, the Examiner takes Official Notice that it is well known in the art to recognize an RF or wireless Ethernet communication network as a network that uses the IEEE 802.11 standard, therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to slightly modify the teachings of Greenspun et al. in order to specifically use the 802.11 standard in the wireless Ethernet communication network.

Consider **claims 3 and 17**, and **as applied to claims 1 and 15 above**, although Greenspun et al. only disclose the use of a single communication channel 11, and consequently, only detects the RF energy of said channel, a person of ordinary skill in the art at the time the invention was made would have found obvious to use more than one channel in order to increase

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the number of assets that can be tracked by having two channels being used.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to detect the energy of the second channel and transmit the location information in said second channel if the energy is below the threshold.

11. **Claim 9, 10, and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Greenspun et al. (U.S. Patent # 5,150,310)** in view of **Belcher et al. (U.S. Patent # 6,121,926)**.

Consider **claims 9, 10, and 22**, and as applied to **claims 1 and 15 above**, Greenspun et al. clearly disclose the claimed invention except the means for receiving a wake-up signal from a transmitter in said network and means for initiating transmission of said location information in response to reception of said wake-up signal.

Belcher et al. clearly disclose receiving, at the RF receiver 50 (figure 3) (means for receiving), a query transmission (wake-up signal) from an interrogation wand 30 (network transmitter) (column 5 lines 30-40); and

transmitting, via an RF transmitter 40 (figure 3) (means for initiating transmission) said location identification information when said query is received (abstract, figures 1 and 4, column 5 lines 40-46 and column 9 lines 33-53).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Greenspun et al. with the teachings of Belcher et al. in order to save power in the transmitters 12.1-12.N by only transmitting if a wake-up

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signal is received.

12. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Belcher et al.** (U.S. Patent # 6,121,926).

Consider **claim 12**, and as applied to **claim 11** above, although Belcher et al. fail to disclose the use of a 802.11 packet to transmit the location information, the Examiner takes Official Notice that it is well known in the art to use 802.11 packet as the means for transmitting information in environments such as the one taught by Belcher et al., therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to slightly modify the teachings of Belcher et al. in order to specifically use the 802.11 standard in the monitored environment 12 of Belcher et al. (figure 1).

Double Patenting

13. **Claim 23** is objected to under 37 CFR 1.75 as being a substantial duplicate of **claim 20**. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

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Conclusion

14. Any response to this Office Action should be **faxed to (703) 872-9314 or mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to

Crystal Park II
2021 Crystal Drive
Arlington, VA 22202
Sixth Floor (Receptionist)

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

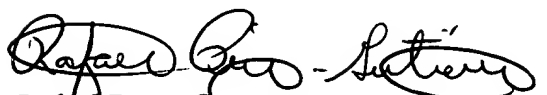
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.

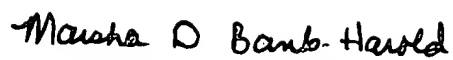
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Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

August 8, 2003


MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes **incorporated** therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.